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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,832	09/09/2003	Sheila E. Johnson	DMJ20301040	1747

7590 11/16/2005

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EXAMINER

WEAVER, SUE A

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,832

Applicant(s)

JOHNSON, SHEILA E.

Examiner

Sue A. Weaver

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2005.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-31 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☒ Claim(s) 1,3-7,10-15,17-19 and 22 is/are allowed.
 6) ☒ Claim(s) 8, 9, 16,20,21 and 23-31 are is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) ☐ Notice of Informal Patent Application (PTO-152)
 6) ☐ Other: _____.

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 30 and second claim 18 been renumbered as claims 29 and 30 respectively.

2. The drawings were received on 8/26/05. These drawing changes are approved.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 8, 9, 16, 20, 21 and 24-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant is advised that there isn't any clear relationship between the at least one opening claimed in claim 1 and "at least one first opening" and "at least one second opening claimed in claims 8 and 9, as amended. These appear to be double inclusions

Claim 16 recites the limitation "the upper panel" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Applicant is advised that there isn't any clear relationship set forth in claim 20 as amended between the side panel upper edge, lower edge, first side edge and opposed side edges on lines 3 and 4 and the adjoining upper edge and adjoining lower edge and detached side edges claimed on lines 8-10.

Claim 24 recites the limitation "the upper section", "the bowling bag", "the lower section" in lines 6, 8 and 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 (second occurrence), renumbered as 30 recites the limitation "The first or the opposite second side panel" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 31 recites the limitation "the first or the opposite second side panel" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim.

4. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dempsey '839 in view of Oh and Battye, all of record.

Dempsey teaches a luggage cover with a back panel of the structure claimed. To have merely provided the cover with openings located to receive the telescoping handle and wheels of today's wheeled luggage in the manner taught by Oh would have been obvious. To have further extended the second stop flap providing it with an additional handle opening overlapping the first to provide a secure closure at the top would have been obvious in view of such teaching by Battye.

5. Claim 24 and 28, insofar as they are definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dempsey '839 in view of Oh, of record.

To have provided the cover of Dempsey with openings for a telescoping handle and wheels so that it might be used with wheeled luggage would have been obvious in view of such teaching by Oh.

6. Claim 25, insofar as it is definite, is rejected under 35 U.S.C. 103(a) as being unpatentable over Foxcroft et al in view of Oh, both of record, and Dempsey '839.

Foxcroft et al teach a cover with a horizontal opening and upper and lower flaps, as claimed. To have provided the cover with openings to receive a telescoping handle and wheels for use with wheeled luggage would have been obvious in view of Oh. To have provided horizontal fastening means for the cover in the manner taught by Dempsey for secure fastening would also have been obvious.

7. Claim 26 insofar as it is definite, is rejected under 35 U.S.C. 103(a) as being unpatentable over Foxcroft et al in view of Oh in the manner set forth in the paragraph above and further in view of Hartwell, 384.

To have alternately oriented the opening so that it is vertically arranged intermediate the panel with fastening means permitting opening like doors of a cabinet would have been obvious in view of Hartwell teaching such a cover opening for a wheeled vehicle.

8. Claims 1, 3-7, 10-15, 17-19 and 22 are allowed while claim 2 has been canceled.

9. Applicant's arguments with respect to claims 8, 9, 16, 20, 21 and 23-31 have been considered but are moot in view of the new ground(s) of rejection. The objections to the abstract and drawings are withdrawn in view of applicant's amendment of 8/26/05.

10. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually

Art Unit: 3727

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Certificate of Mailing

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.


Art Unit: 3727

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571) 272-4548. The examiner can normally be reached on Tuesday-Friday from 6 to 4:30.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SW


SUE A. WEAVER
PRIMARY EXAMINER
GROUP 3700